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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

Docket No. RHS-18-SFH-0020

RIN 0575-AD09

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency) published a proposed rule on August 23, 2018, proposing to implement changes to the single family housing guaranteed loan program (SFHGLP) regulation to streamline the loss claim process for lenders who have acquired title to property through voluntary liquidation or foreclosure; clarify that lenders must comply with applicable laws, including those within the purview of the Consumer Financial Protection Bureau (CFPB); and better align loss mitigation policies with the mortgage industry. Through this action, RHS finalizes the rule largely as

proposed with some revisions.

DATES: Effective [INSERT DATE 120 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Kate Jensen, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250-0784, telephone: (503) 894-2382, email is kate.jensen@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

The expansion of the SFHGLP in recent years has led the Agency to investigate opportunities to streamline the program policies and procedures, align the Agency with accepted industry practices, and balance Agency resources with program demand. To help achieve these objectives, this rule modifies the loss claim and loss mitigation processes.

A. Loss Claim Process

The Agency is implementing two primary changes to the loss claim process in the areas of timing and valuation of

property that has been acquired by a lender (referred to as Real Estate Owned (REO) property). The Agency will not change the loan guarantee limits under 7 CFR 3555.351.

Regarding the timing of loss claims, the Agency currently affords lenders (defined in 7 CFR 3555.10 as entities making, holding, or servicing SFHGLP loans) the opportunity to submit loss claims on REO property after foreclosure; during a nine-month marketing period; or if the property has not sold during the nine-month marketing period (twelve-month for tribal land), through the submission of an Estimated Net Recovery (ENR) loss claim. The current options create uncertainty, as it may take many months before a loss claim package is submitted and processed and impose significant administrative burden on lenders and the Agency. To streamline the process, the Agency will eliminate the options of the nine-month marketing period and ENR loss claims. Instead, all loss claims will be submitted in a timely manner (discussed further below) after lender acquisition of title without waiting for a potential sale to a third party during the marketing period. In addition, the elimination of the ENR loss claim option will eliminate the need for lenders to monitor, and the Agency to collect, Future Recovery

payments. Therefore, the Agency is removing the Future Recovery requirements at 7 CFR 3555.356.

Regarding the valuation of REO property, the Agency currently requires lenders to obtain a liquidation value appraisal to determine security property value and calculate the loss claim amount. Under the final rule, the Agency will replace the liquidation value appraisal with a market value appraisal in conjunction with a model to determine the security property value as the basis to calculate the loss claim amount. The Agency presently requires the submission of receipts for actual property preservation and disposal costs. Property preservation and disposal costs will now be based on the Veterans Administration Management and Acquisition Factor (aka the VA Net Value Factor) found at https://www.benefits.va.gov/homeloans/servicers_valeri.asp. Lenders will be required to submit the complete loss claim package within 60 days of foreclosure sale date, acquisition date, or possession of the security property. The new process will eliminate the need for REO property disposition plans.

Through the changes made by the final rule to the loss claim process, the Agency anticipates a more streamlined approach to loss claim payment processing. Therefore, the

Agency will limit the amount of additional interest (accrued between the settlement date and loss claim payment) included in the loss claim payment to 60 days of additional interest during the loss claim period.¹

The final rule makes several other changes to improve and clarify the loss claim process.

The Agency will revise 7 CFR 3555.354, which currently allows lenders to submit a loss claim electronically or in paper format. The change will require all lenders to utilize a web-based system to submit loss claims that will make it easier for both lenders and the Agency.

The Agency will also add a definition for settlement date for deed-in-lieu actions for purposes of calculating loss claims. The Agency will define the settlement date of the deed-in-lieu as the date title is recorded. The current version of the regulation does not address this issue.

B. Loss Mitigation

Changes regarding loss mitigation procedures will continue the Agency's efforts to improve the overall effectiveness of loss mitigation by emphasizing payment

¹In the unlikely event that it takes more than 60 days to process a loss claim, the Agency may pay up to 90 days of additional interest if provided for in the relevant Loan Note Guarantee (Form RD 3555-17). The Agency plans to amend the Loan Note Guarantee for consistency with the 60-day limit in the final rule.

reduction. Historically, borrowers who receive a payment reduction of less than 10 percent have re-defaulted at a rate greater than 60 percent. When at least a 10 percent payment reduction is achieved, the re-default rate is reduced by half. The changes will continue to increase homeownership success and decrease foreclosures. The Agency expects a corresponding reduction in lender REO property which could result in community stability and decreased expenses associated with foreclosure and property disposition.

The Agency will also add a Mortgage Recovery Advance (MRA) option that will not require a modification to the terms of the promissory note. This option will create an opportunity for borrowers with a resolved hardship to cure the delinquency and retain their already affordable payment.

The Agency will also amend 7 CFR 3555.51(b)(1) to clarify that in addition to complying with Agency laws and guidance, lenders must comply with other applicable federal, state, and local laws, including those that fall under the purview of the Consumer Financial Protection Bureau (CFPB), such as the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA).

II. Discussion of Relevant Public Comments Received on the August 23, 2018, Proposed Rule

On August 23, 2018, RHS published a proposed rule regarding the changes to SFHGLP loss claims and loss mitigation discussed above (83 FR 42618-42622). The Agency received comments from nine respondents including lenders, State Housing Finance Agencies, industry trade groups, and other interested parties. Specific public comments are addressed below in order of appearance in the regulation.

Loss Claims

Nine respondents supported the Agency's proposal to streamline the loss claim process for lenders who have acquired title to properties through voluntary liquidation or foreclosure.

Two respondents requested clarification when the rule would be enacted, and which loans will be directly affected by the changes. The new rule will affect all loans where lender acquisition or possession of the property takes place on or after the Final Rule effective date.

Six respondents requested further definition of "acquisition of title" along with the request to amend the regulation requirement to include the vacancy status of the property. The proposed rule stated the lender should order an appraisal within fifteen days of acquiring title to the

property and did not consider the potential inability to complete an interior appraisal if eviction action would be required. In response to these comments, the Agency will amend the regulation in §3555.353(b) to require the lender to submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package, including the market value appraisal, within 60 days of the date the occupants clear the premises (also referred to in this notice as a lender taking "possession" of the property).

One respondent requested the Agency to define "cost effective" and "significant amount" as used in §3555.302(b) for purposes of determining when protective advances require concurrence from the Agency and cover costs besides taxes and insurance. The respondent suggested that if the cost of a protective advance exceeds ten percent of the market value of the property, Agency concurrence is required. This align with existing published policy in the USDA SFHGLP Handbook Chapters 17 and 18 regarding Pre-Foreclosure Sales (PFS) and Deed-in-Lieu transactions. The Agency will continue to provide additional guidance to lenders as necessary. No change is made to the regulation.

One respondent requested the Agency to allow for additional payment of interest when USDA exceeds 60 days for processing claims. At minimum, the respondent recommends a review process within USDA to quarterly or bi-annually review cycle times and publish a requirement in this regulation that will allow some flexibility to reimburse interest beyond 60 days. The Agency believes that it is well positioned through improvements in the process created with this change to meet the 60-day timeframe for processing loss claims. No change is made to the provision. However, in the unlikely event that it takes more than 60 days to process a loss claim, the Agency may pay up to 90 days of additional interest if provided for in the relevant Loan Note Guarantee (Form RD 3555-17). The Agency plans to amend the Loan Note Guarantee for consistency with the 60-day limit in the final rule.

Three respondents believe the Agency should publish the loss claim model algorithm to allow lenders increased transparency to better model potential outcomes. The Agency is providing an overview of the loss claim model algorithm as follows: The Property Sale Value Calculator (PSVC) uses a statistical technique known as linear regression. The PSVC is based on, and like, the Federal Housing Agency's (FHA) Loss Given Default (LGD) model,

which also uses linear regression. For a detailed description of FHA's LGD model, see Section 5 of the Congressional Budget Office's working paper, *Modeling the Budgetary Costs of FHA's Single-Family Mortgage Insurance* <http://www.cbo.gov/sites/default/files/cbofiles/attachments/45711-FHA.pdf>.

Linear regression is a statistical method for estimating one unknown variable using other known variables. The result of linear regression analysis is an equation of coefficients based on historical relationships between variables. Inputting known variables into the equation generates an estimate of the unknown variable - the property sale value. The model coefficients use data on approximately 94,000 historical claims from the program. The Agency updates the model coefficients annually using actual property sale values acquired through a third-party data provider. The Agency adds historical data to the model every year and re-generates coefficients to ensure historical relationships between variables represent the most recent data available and that the model produces accurate property value estimates.

The servicing system takes known loan characteristic values based on the REO date and multiplies them by the

coefficients. The products are then summed to output the estimated property sale value.

Table 1 (below) presents the variables used in the model along with the variable type and a description. The model uses two types of variables: continuous and categorical. Continuous variables can have any numeric value. Categorical variables have a value of one if they fall within a certain range and a value of zero if they do not. If a loan has a categorical variable with a value of zero, that means the coefficient is not applicable to the loan and the model does not adjust the estimated property sale value for that characteristic. The model only adjusts the estimated property sale value for certain states.

Table 1 – Description of Variables

Variable	Type	Description
Constant	NA	Applied to all loans.
Original Loan Amount	Continuous	Original mortgage amount.
Appraisal Amount	Continuous	Appraisal amount at the time a property becomes REO.
Current Loan-to-Value Ratio (CLTV)	Continuous	The ratio of the UPB to the appraisal amount.
Origination Year Indicators	Categorical	Indicates a loan originated between 2004 and 2009.
States	Categorical	Indicates a loan from a given state.
Loan Size Ratio (LSR)	Categorical	The ratio of the original loan amount to the average original loan amount in the region.

One respondent encouraged the Agency to publish the findings from the “Settle at Foreclosure Pilot Program,” to

help lenders better understand potential effects to their portfolio's loss assumptions on RHS properties which have culminated in a foreclosure sale. The Agency has received positive feedback from pilot lenders concerning reduction of loss claim documentation, the elimination of property disposition plans, and collection of future recovery. Additionally, pilot lenders receive payment of loss claim funds sooner as compared to the current system. This is evidenced internally through a reduction in loss claim processing time for the Agency. The Agency believes further information regarding the pilot is unnecessary at this time given the overview of the loss claim algorithm above and will provide further guidance as necessary.

One respondent suggested the regulation should address differences between estimated and actual expenses and that RHS should specify that actual expenses are captured for claim filing only when all necessary steps to make a property stable have occurred. The proposed changes to the regulation do not require the servicing lender to use actual expenses since the new process utilizes estimated property preservation and disposal expenses using the VA Net Value Factor. No change is made to this provision.

Three respondents commented on the Agency's use of the VA Net Value Factor to estimate holding and deposition

costs. All three respondents contended the VA Net Value Factor consistently and significantly underestimates the actual expenses and believes lenders will not be sufficiently compensated for holding and property management costs. The VA Net Value Factor is a long-established model widely utilized in the mortgage servicing industry for loss claim servicing. The VA Net Value Factor regularly updates the factor taking into account the costs of servicing single family properties. The Agency has used the VA Net Value Factor since 1999 with success and does not believe that there are industry accepted alternatives to the VA Net Value Factor. No change is made to this provision.

One respondent suggested that RHS should continue to develop and support alternative disposition strategies. Given the resource savings to RHS and the timeframe reduction in the proposed rule, the respondent requests that RHS should not implement this rule at the cost of alternative disposition strategies. Instead, RHS should continue to prioritize efforts to develop or enhance disposition options that do not result in lenders taking a property into inventory. The adoption of this new loss claim regulation should not prohibit or discourage lenders from offering borrowers the full range of loss mitigation

options. The Agency fully supports loss mitigation activity in lieu of foreclosure and will not eliminate any requirements that lenders offer and investigate loss mitigation alternatives prior to foreclosure as required in §3555.301(b).

One respondent proposed that the value of the property to determine loss claim calculation be based on the outstanding unpaid principal balance (UPB) and percentage of loss coverage in the Loan Note Guarantee. The respondent contends the suggested valuation method will not establish a reliable property value. If existing UPBs were utilized to establish value, there would be no loss and any future claim payments would be reduced or nonexistent. The Agency did not propose to change the percentage of coverage based on the original loan amount and will retain the loan guarantee limits as outlined in §3555.351. No change is made to this provision.

One respondent requested that a time limit be imposed on post-payment review or eliminate repayment under post-payment reviews. This was not addressed in the proposed rule and, therefore, no further action will be taken.

General Lender Requirement

Two respondents commented on the proposed general lender requirements to clarify that in addition to

complying with Agency laws and guidance, lenders must comply with all other applicable federal, state, and local laws. The first respondent requested the Agency update the language in regulation §3555.51(b)(1) instead of §3555.6. The Agency agrees to update §3555.51(b)(1) versus §3555.6.

The second respondent requested the Agency to include the RESPA and TILA obligations. The updated language in §3555.51(b) refers to all applicable laws, and specifically mentions RESPA and TILA. Lenders may refer to the CFPB regulations implementing RESPA and TILA, including those at 12 CFR parts 1024 and 1026, for specific requirements. It is redundant and unnecessary for the Agency to repeat the content of those regulations in 7 CFR part 3555. No change is made in this provision.

Loss Mitigation

Four respondents commented on the proposed regulation language at 7 CFR 3555.303(b)(3)(v) regarding the option for a lender to require a trial plan before a traditional servicing loan modification. One respondent requested clarification as to when a trial period should be used to ensure equal treatment of all borrowers. The current regulation only requires a trial period when Special Servicing Options are utilized, and the updated regulation language provides flexibility to the lender/ to determine

whether a trial period is warranted or required by lender or investor guidelines for other retention options. The Agency does not believe it is necessary or helpful for the Agency to prescribe when trial periods may be required. No change is made to this provision.

Two of the four respondents expressed concern that by not requiring a trial plan prior to a traditional servicing loan modification, the loans will not meet the investor buyout requirements. While the final rule will not require a trial period, the rule will neither prohibit the use of trial period overlays based on loan lender and investor requirements. No change is made to this provision.

The fourth respondent requested that the Agency eliminate the requirement for trial period plans to increase borrower access to loss mitigation measures. As previously discussed, the regulation in 3555.303 will not require a trial plan for traditional servicing loan modifications. It is the lender's responsibility to determine if a trial plan is warranted and/or a trial plan is required by lender or investor guidelines. The regulation does require the use of trial plans for special servicing extended term loan modifications. No change is made to this provision.

Two respondents proposed the MRA eligibility threshold be adjusted. Both commenters suggest RHS adjust the eligibility threshold to "31 percent or less." This would align with the eligibility cut-off for Special Servicing measures making the MRA only an option for all customers ineligible for Special Loan Servicing. The Agency agrees and will amend the regulation to state "31 percent or less."

One of the two respondents also requested RHS to provide clarity on where the MRA eligibility threshold would fit in the servicing waterfall. Details on the waterfall will be addressed in the *Loss Mitigation Guide (Attachment 18-A)*. No further change is made to this provision.

One respondent proposed RHS change the verbiage in section §3555.304(d)(2) from "date of default" to "date of initial default" to align with industry standards. The Agency agrees and will adopt the language "date of initial default."

One respondent suggested that RHS should amend §3555.303 to permit capitalization of protective advances in traditional servicing loan modifications. The respondent suggested RHS update the regulation to explicitly permit lenders to capitalize protective advances

related to the maintenance and preservation of mortgage properties. The Agency does not believe such a change is necessary at this time, and the suggestion is outside the scope of the proposed rule. No change is made to this provision.

One respondent requested clarification that modified interest rates for loan modifications are not limited by the interest rate at the time the Loan Note Guarantee (LNG) was issued. The proposed rule provided in §3555.304(c)(1) that the modified interest rate for special servicing extended term loan modifications not exceed the market interest rate and eliminated the reference to the interest rate stated in the LNG. The Agency will make a similar change in §3555.303(b)(3)(i) regarding traditional servicing loan modifications.

One respondent requested that RHS incorporate an exclusion waiver from loss mitigation options requiring a change in the interest rate, a write off of principal, and/or extension of the term of the mortgage for Housing Finance Agencies with loans funded through the sale of Mortgage Revenue Bonds. This authority is already provided to lenders in the *Loss Mitigation Guide*. No change is made to this provision.

One respondent recommended that RHS should eliminate the requirement for agency approval of all loss mitigation decisions and instead establish a loss mitigation appeals process for disputed cases. Instead of having RHS review each case, the Agency must instead divert those resources to an appeal process by which the borrower can address lenders mistakes. The commenter believes the Agency should implement appeal rights pursuant to 42 U.S.C. 1480(g). The Agency is finalizing the elimination of the need for Agency concurrence for all loss mitigation plans. The suggestion to add appeal processes beyond what is already provided for §3555.4 is unnecessary and outside the scope of the proposed rule. No change is made to this provision.

One respondent suggested the Agency should require lenders to provide servicing plans to borrowers. They stated RHS should require the lender to simultaneously provide the borrower with copies of all servicing plans submitted to the Agency regarding the borrower's loan. RESPA and Regulation X (12 CFR part 1024), administered by the CFPB, govern mortgage servicing disclosure requirements. It is unnecessary for the Agency to duplicate or add to those requirements. No change is made in this provision.

One respondent requested the Agency to clarify that unpaid principal balance is not counted twice in the modification calculation and RHS should make it clear how the terms of modifications are calculated to avoid confusion. The Agency agrees and will clarify the language in sections §3555.303(b)(3)(ii) for traditional servicing loan modifications and the new §3555.304(c)(1) for special servicing extended term loan modifications.

One respondent proposed three changes to the updated regulation that are outside of the scope of the published proposed rule. The first recommended the Agency fully implement the FHA-Home Affordable Modification Program (HAMP) waterfall. The second was a suggestion to include language in required notices and form documents to clearly identify the loan status. The third called for the implementation of payment moratorium options for borrowers in default. These items are outside of the scope of this rulemaking and not necessary at this time. No change is made to this provision.

One respondent stated the Agency should eliminate the debt-to-income cap and clarify that lenders must waive late fees in connection with a successful loss mitigation. The Agency does not consider these suggestions as necessary at

this time, and they are outside the scope of the proposed rule. No change is made to this provision.

One respondent suggested RHS should modernize its data collection systems and its quality control process to improve its evaluation of loss mitigation options. These items were not addressed in the proposed rule and are considered to be outside of the scope. No change is made in response to this comment.

The loss mitigation changes will offer borrowers faster and greater payment relief early in the loan delinquency. The changes will continue to increase homeownership success and decrease foreclosures. The Agency expects a corresponding reduction in lender-owned properties resulting in greater community stability as well as decreased expenses associated with foreclosure and property disposition.

Executive Order 12866, Classification

This rule has been determined to be non-significant and therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. § 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. § 804(2).

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under the SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This final rule is not retroactive. It will not affect agreements entered prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effect of their regulatory

actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, "Environmental Policies." It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting

the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency

determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 imposes requirements on RHS in the development of regulatory policies that have Tribal implications or preempt tribal laws. RHS has determined that the final rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RHS is not aware and would like to engage with RHS on this rule, please contact USDA's Native American Coordinator at (720) 544-2911 or AIAN@usda.gov.

Executive Order 12372, Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each SFHGLP loan in

accordance with 2 CFR part 415, subpart C.

Programs Affected

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The assigned OMB control number is 0570-0179.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027,

found online at

http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) Mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil
Rights

1400 Independence Avenue, SW.,
Washington, D.C. 20250-9410;

(2) Fax: (202) 690-7442; or

(3) E-mail: program.intake@usda.gov.

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List of Subjects in 7 CFR Part 3555

Home improvement, Loan Programs - Housing and community development, Eligible loan purpose, Construction, Loan terms, Mortgages, Rural areas.

Therefore, chapter XXXV, title 7 of the Code of Federal Regulations is amended as follows:

PART 3555 - GUARANTEED RURAL HOUSING PROGRAM

1. The authority citation for Part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 et seq.

2. Amend §3555.10 in the definition of *Settlement date* to by revising the introductory text and adding paragraph (5) to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Settlement date. The settlement date, for the purpose of loss calculation, is:

* * * * *

(5) The date title is acquired upon recordation of a deed-in-lieu of foreclosure, with prior approval of the lender.

* * * * *

3. Amend §3555.51 by adding a new second sentence to paragraph (b)(1) to read as follows:

§ 3555.51 Lender eligibility.

* * * * *

(b) * * *

(1) * * * Lenders must also comply with all other applicable federal, state, and local laws, rules, and requirements, including those under the purview of the Consumer Financial Protection Bureau, such as the Real Estate Settlement Procedures Act and the Truth in Lending Act.* * *

* * * * *

4. Amend § 3555.301 by revising paragraph (h) to read as follows:

§ 3555.301 General servicing techniques.

* * * * *

(h) *Formal servicing plan.* The lender must report a formal servicing plan to the Agency utilizing a web-based automated system when a borrower's account is delinquent for 90 days or more and a method other than foreclosure is recommended to solve the delinquency.

5. Amend § 3555.302 by revising the last sentence in paragraph (b) to read as follows:

§ 3555.302 Protective advances.

* * * * *

(b) * * * The lender must obtain prior Agency concurrence before issuing protective advances under this paragraph of a significant amount as specified by the Agency.

6. Amend § 3555.303 by revising paragraphs (b)(3)(i), (ii), and (v) to read as follows:

§ 3555.303 Traditional servicing options.

* * * * *

(b) * * *

(3) * * *

(i) Loan modifications must be a fixed interest rate and cannot exceed the market interest rate at the time of modification.

(ii) Loan modifications may capitalize all or a portion of the arrearage and/or reamortization of the balance due including foreclosure fees and costs, tax and insurance advances, and past due Agency annual fees imposed by the lender. Late charges and lender fees may not be capitalized.

* * * * *

(v) Lenders may require that borrowers complete a trial payment plan prior to making scheduled payments

amended by the traditional loan servicing loan
modification.

* * * * *

7. Amend §3555.304 by:

- a. Removing paragraph (a) (2);
- b. Redesignating paragraphs (a) (3) and (4) as paragraphs (a) (2) and (3);
- c. Adding new paragraph (a) (4); and
- d. Revising paragraphs (c) (1) and (2) and (d) (1) and (2).

The addition and revisions read as follows:

§ 3555.304 Special servicing options.

(a) * * *

(4) If the borrower currently has a mortgage payment to income ratio of 31 percent or less, special servicing options can be utilized to cure the delinquency without modifying the note; otherwise, special servicing options shall be used in the order established in this section to bring the borrower's mortgage payment to income ratio as close as possible to, but not less than, 31 percent.

* * * * *

(c) * * *

(1) Loan modifications may capitalize all or a portion of the arrearage and/or reamortization of the balance due including foreclosure fees and costs, tax and insurance advances, and past due Agency annual fees imposed by the lender. Late charges and lender fees may not be capitalized.

(2) Loan modifications must be a fixed interest rate and cannot exceed the current market interest rate at the time of modification. When reducing the interest rate, the maximum rate is subject to paragraph (c)(3) of this section.

* * * * *

(d) * * *

(1) The maximum amount of a mortgage recovery advance is 30 percent of the unpaid principal balance as of the date of initial default. The Agency may change the maximum amount of mortgage recovery advance by publication in the Federal Register.

(2) If the borrower's total monthly mortgage payment is less than 31 percent of gross monthly income prior to an extended term loan modification, the mortgage recovery advance can be used to cure the borrower's delinquency without changing the terms of the promissory note.

* * * * *

8. Amend §3555.305 by revising the introductory text and paragraph (a)(1) to read as follows:

§ 3555.305 Voluntary liquidation.

The lender must have exhausted the servicing options outlined in §§ 3555.302 through 3555.304 to cure the delinquency before considering voluntary liquidation. The methods of voluntary liquidation of the security property outlined in this section may be used to protect the interests of the Government.

(a)* * *

(1) The loan is at least 30 days delinquent or meets the imminent default definition as outlined in §3555.303(a)(2);

* * * * *

9. Amend §3555.306 by revising paragraph (f) to read as follows:

§ 3555.306 Liquidation.

* * * * *

(f) Lender acquisition of title. If at liquidation, the title to the property is conveyed to the lender, the lender will submit a loss claim package, including a market value appraisal, within 60 days of

the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package, including the market value appraisal, within 60 days of the date the occupants clear the premises. The lender must submit the loss claim request, including the market value appraisal, in accordance with subpart H.

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10. Amend §3555.352 by revising paragraphs (c) and (e) to read as follows:

§ 3555.352 Loss covered by the guarantee.

* * * * *

(c) *Additional interest.* Additional interest on the unsatisfied principal accrued from the settlement date to the date the claim is paid, but not more than 60 days from the settlement date;

* * * * *

(e) *Liquidation costs.* Reasonable and customary liquidation costs, such as attorney fees, market value appraisals, and foreclosure costs. Annual fees advanced by the lender to the Agency are ineligible for reimbursement when calculating the loss claim payment.

11. Amend §3555.353 by revising paragraphs (a) introductory text and (b) to read as follows:

§ 3555.353 Net recovery value.

* * * * *

(a) For a property that has been sold. When a loss claim is filed on a property that was sold to a third party at the foreclosure sale or through an approved pre-foreclosure sale, net recovery value is calculated as follows:

* * * * *

(b) For a property that has been acquired. When a loss claim is filed on a property acquired by the lender through a foreclosure sale or a deed-in-lieu of foreclosure, the net recovery value is based on an estimated sales price calculated using a market value appraisal along with holding and disposition costs calculated using the acquisition and management factor (also known as the VA Net Value Factor) published by the VA, and other factors as determined by the Agency. The lender must submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market

value appraisal, the lender must submit the loss claim package, including the market value appraisal, within 60 days of the date the occupants clear the premises and in accordance with other requirements of this subpart. with any loss claim request in accordance with subpart H.

12. Amend § 3555.354 by revising the introductory text and paragraph (b) to read as follows:

§ 3555.354 Loss claim procedures.

All lenders must use a web-based automated system designated by the Agency to submit all loss claim requests.

* * * * *

(b) REO. If at liquidation, the title to the property is conveyed to the lender, the lender will submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package within 60 days of the date the occupants clear the premises. The lender must order a market value appraisal and include the market value appraisal with the loss claim package. The Agency will use the market value appraisal, along with other Agency required

documentation, to determine the property value for the basis of the loss claim. The Agency will apply an acquisition and management resale factor to estimate holding and disposition costs, based on the most current VA Management and Acquisition Factor found at https://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp.

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\$ 3555.356 [Removed and Reserved]

13. Remove and reserve \$ 3555.356.

Dated: November 25, 2019.

Bruce W. Lammers
Administrator
Rural Housing Service
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